

DETAILED ACTION

Acknowledgements

1. The Applicants Appeal Brief filed on June 25, 2010 is hereby acknowledged. Claims 49-54, 60-62, 100-103 and 108-112 are pending. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

2. Applicant's arguments with respect to the amended claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 49-54,60-62, 100-103 and 108-112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khedouri et al. (US Patent Application Publication 2006/0008256) in view of Hitchen et al. (US Patent 7,725,490).

4. As per claims 49 and 100
Khedouri et al. ('256)discloses a method for managing digital rights, the method comprising:

applying a digital wrapper to the unwrapped data file in response to the detected attempt to transfer the data file before allowing the attempted transfer, (Paragraphs 79, 82)

wherein the digital wrapper is adapted to prevent unauthorized access to the data file after the data file is transferred between the user device and the external device.(paragraph 58, 106)

Examiner notes that a wherein clause that merely states the result of the limitations in the claim adds nothing to the patentability or substance of the claim. (Texas Instruments Inc. v.

International Trade Commission 26, USPQ2d 1010 (Fed. Cir. 1993); Griffin v. Bertina, 62 USPQ2d 1431 (Fed. Cir. 2002); Amazon.com Inc. v. Barnesandnoble.com Inc., 57 USPQ2d 1747 (CAFC 2001).

wherein the data file is stored in an unwrapped form prior to the attempt to transfer the data file; (Paragraph 79)

Khedouri et al. ('256)does not explicitly disclose monitoring an input/output system of a user device for attempted file transfers; detecting an attempt to transfer a data file between the user device and an external device through one of the input/output ports of the user device, wherein the data file is stored in an unwrapped form prior to the attempt to transfer the data file; Hitchen et al. ('490)discloses monitoring an input/output system of a user device for attempted file transfers;(Column 6, lines 3-12, figure 1) detecting an attempt to transfer a data file between the user device and an external device through one of the input/output ports of the user device, (Column 7, lines 5-19, figure 3) It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Khedouri et al. ('256) system with the Hitchen et al. ('490)'s system in order to hide the access key from casual observation.

5. As per claim 50

Khedouri et al. ('256) discloses the method of claim 49, wherein the data file comprises a media file. (paragraph 17)

As per claim 51

6. Khedouri et al. ('256) discloses the method of claim 49, further comprising identifying the data file as embodying a particular protected work from a plurality of predetermined works, wherein the digital wrapper is applied based on the identity of the data file.(paragraph 24)

7. As per claim 52

Khedouri et al. ('256) discloses the method of claim 51, wherein the digital wrapper is applied based on the identity of the data file matching tin identification of the data file in a database on the user device.(paragraph 79)

8. As per claims 53 and 109

Khedouri et al. ('256) discloses the method of claim 51, wherein identifying the data file comprises using a file recognition algorithm adapted for identifying data files as embodying particular protected works based on characteristics of the data files.(Paragraph 60) Examiner notes that “adapted for identifying data files as embodying particular protected works based on characteristics of the data files” is representative of descriptive material or non-functional data and such data will not distinguish the claimed

invention from the prior art (*In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

9. As per claim 54

Khedouri et al. ('256) discloses the method of claim 49, wherein the digital wrapper includes information identifying the data file (paragraph 79) and information relating to an allocation of credits to one or more distributors of the data file based on purchases of the data file. (paragraph 110, 137)

10. As per claims 60 and 108

Khedouri et al. ('256) discloses a method for managing digital rights, the method comprising:

identifying a media file stored on a user device for distribution to an external device, (Paragraphs 60, 71, 80) where the media file is stored in an unwrapped form prior to distribution; (Paragraph 79)

identifying access rules associated with the media file, wherein the access rules include information relating to usage rights and usage fees;(Paragraph 80, 94, 109-112)

Khedouri et al. ('256) does not explicitly disclose applying a digital wrapper to the media file before distribution occurs, with the digital wrapper including identification data for the media file and data relating to the access rules, wherein the digital wrapper is adapted to prevent unauthorized access to the media file after the media file is distributed to the external device.

Hitchen et al. ('490) discloses applying a digital wrapper to the media file before distribution

occurs, with the digital wrapper including identification data for the media file and data relating to the access rules, wherein tile digital wrapper is adapted to prevent unauthorized access to the media file after the media file is distributed to the external device.:(Column 6, lines 3-12, figure 1; column 7, lines 5-19, figure 3) It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Khedouri et al. ('256) system with the Hitchen et al. ('490)'s system in order to hide the access key from casual observation.

11. As per claim 61

Khedouri et al. ('256) discloses the method of claim 60

wherein the digital wrapper is adapted to be disabled for use of the media file by an external device that has a license to access the media file.(Paragraph 80)

Examiner notes that "adapted to be disabled for use of the media file by an external device that has a license to access the media " is representative of descriptive material or non-functional data and such data will not distinguish the claimed invention from the prior art (*In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

12. As per claim 62

Khedouri et al. ('256) discloses the method of claim 60

Khedouri et al. ('256)does not explicitly disclose wherein the digital wrapper further includes information relating to at least one distributor of the media file. Doherty et al. ('567) discloses wherein the digital wrapper further includes information relating to at least one distributor of the

media file. (Column 20, lines 35-59; column 21, lines 33-37) It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Khedouri et al. ('256) system with the Doherty et al. ('567)'s system in order to hide the access key from casual observation.

13. As per claim 101

Khedouri et al. ('256) discloses the article of claim 100

wherein the machine-readable medium stores instructions for causing one or more processors to perform further operations comprising identifying the data file as being subject to protection from unauthorized copying. (Paragraph 56, 65, 79)

14. As per claim 102

Khedouri et al. ('256) discloses the article of claim 101

wherein identifying the data file as being subject to protection from unauthorized copying includes locating an identifier for the data file in a database stored on the user device. (Paragraph 56, 60)

15. As per claim 103

Khedouri et al. ('256) discloses the article of claim 101

wherein identifying the data file as being subject to protection from unauthorized copying includes: sending a message including information for identifying the data file to a remote

server; and receiving a response to the message indicating that the data file is subject to protection from unauthorized copying. (paragraphs 69, 71, 104)

16. As per claim 110

Khedouri et al. ('256) discloses the article of claim 108

wherein identifying the access rules associated with the media file comprises receiving access rules from a remote server.(paragraphs 80, 104)

17. As per claim 111

Khedouri et al. ('256) discloses the article of claim 108

wherein the machine readable medium stores instructions for causing one or more processors to perform further operations comprising:

receiving a request from a user of the external device for authorization to access the media file after distribution of the media file from the user device;

notifying a remote server of the request for authorization to access the media file by the external device; disabling the digital wrapper to allow access to the media file by the user of the external device. (paragraphs 79-80)

18. As per claim 112

Khedouri et al. ('256) discloses the article of claim 108

wherein identifying the access rules associated with the media file comprises receiving the access rules from the user device. (paragraph 80)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN M. WINTER whose telephone number is (571)272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on (571) 272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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